

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of the Commission's Rules)	CC Docket No. 94-102
To Ensure Compatibility with Enhanced)	
911 Emergency Calling Systems)	
)	
Amendment of Parts 2 and 25 to Implement)	
The Global Mobile Personal Communications)	
By Satellite (GMPCS) Memorandum)	
Of Understanding and Arrangements; et al.)	
 To: The Federal Communications Commission		

**COMMENTS OF THE TEXAS COMMISSION ON STATE EMERGENCY
COMMUNICATIONS AND TEXAS EMERGENCY COMMUNICATION DISTRICTS**

The Texas Commission on State Emergency Communications and certain Texas Emergency Communication Districts (hereinafter referred to collectively as the "Texas 9-1-1 Agencies")¹ file these reply comments to the initial comments filed on or around February 19, 2003, in response to the Further Notice of Proposed Rulemaking ("FNPRM") released by the

¹ TX-CSEC is a state agency created pursuant to Texas Health and Safety Code Chapter 771. The Texas Emergency Communication Districts are Bexar Metro 9-1-1 Network, Brazos County Emergency Communication District, Calhoun County 9-1-1 Emergency Communication District, DENCO Area 9-1-1 District, Emergency Communications District of Ector County, Galveston County Emergency Communication District, Greater Harris County 9-1-1 Emergency Network, Henderson County 9-1-1 Communication District, Howard County 9-1-1 Communication District, Kerr County Emergency 9-1-1 Network, Lubbock County Emergency Communication District, McLennan County Emergency Communication District, Medina County 9-1-1 District, Midland Emergency Communications District, Montgomery County Emergency Communication District, Wichita-Wilbarger 9-1-1 District, Potter-Randall County Emergency Communication District, Smith County 9-1-1 Communications District, and Texas Eastern 9-1-1 Network. These districts were created pursuant to Texas Health and Safety Code Chapter 772.

Commission on December 20, 2002. The Texas 9-1-1 Agencies generally support the initial comments filed jointly by the National Emergency Number Association (“NENA”) and the National Association of State Nine-One-One Administrators (“NASNA”) (collectively referred to herein as “NENA”) as well as parts of the initial comments filed by the Association of Public-Safety Communications Officials-International, Inc. (“APCO”) and the initial comments filed by other public safety agencies.

NENA’s initial comments state a presumption that as a matter of policy, “every device or service capable of dialing 9-1-1 should also be accessible to return calls from PSAPs and to location of the caller” and “if there is a reasonable expectation on the part of the caller that he or she can reach emergency assistance, the question becomes not whether, but how, to make that happen.”² In the FNPRM the Commission indicated its four proposed criteria for analyzing whether to require E9-1-1. The Commission stated:

We thus seek comment on our proposed analysis of different types of services and devices starting with the criteria that guided our decision in the E911 First Report and Order. Based on those criteria, we propose analyzing each service or product based on whether: (1) it offers real-time, two-way voice service that is interconnected to the public switched network on either a stand-alone basis or packaged with other telecommunications services; (2) the customers using the service or device have a reasonable expectation of access to 911 and E911 services; (3) the service competes with traditional CMRS or wireline local exchange services; and (4) it is technically and operationally feasible for the service or device to support E911.

The Texas 9-1-1 Agencies believe that NENA has appropriately focused the analysis on the Commission’s second proposed criteria. While the Commission’s first and third criteria may be factors in evaluating reasonable expectations of consumers, and while the Commission’s fourth

² NENA Initial Comments at pp. 2-3.

proposed criteria may be a reason for a longer project management plan or temporary waivers, the primary focus should be as stated by NENA: “if there is a reasonable expectation on the part of the caller that he or she can reach emergency assistance, the question becomes not whether, but how, to make that happen.”

NENA recommended a “project management” approach in which objectives and timetables are set with a project plan produced by stakeholders with FCC guidance.³ Given the complexities and/or workings of some of these systems, especially Mobile Satellite Services (“MSS”)⁴ and Telematics, NENA’s recommended “project management” approach should generally be adopted by the FCC to address near-term and long-term solutions. There are issues, however, that would benefit greatly by expedited rulings by the Commission.

The issues that would benefit by expedited rulings are (1) an FCC ruling on the E9-1-1 requirements under state laws and state public utility commission rules and/or FCC rules for Voice Over the Internet Protocol (“VoIP”) services currently being marketed to consumers, including residential consumers without any 9-1-1 and/or E9-1-1 service; (2) an FCC ruling on the responsibility of a wireless reseller under FCC rules regarding reselling the service of a wireless carrier that is using a Handset Solution for wireless E9-1-1 Phase II service; and (3) an

³ Id. at p. 4.

⁴ The MSS issue is the one where NENA’s suggested “project management” approach may be the most helpful. There appear to be variant types of MSS and differing uses and potential for or actual 9-1-1 calls. There appears initially to be more legitimate reasons possibly deferring application of E9-1-1 service rules in some situations, but not possibly in other situations. However, NENA noted that some of the E9-1-1 compliance problems and technical concerns expressed by Mobile Satellite Systems might lessen as 9-1-1 systems move toward a national compatibility and obviate the 9-1-1 network “gateway” problem, for example, by having “911” as a special “NXX” code, possibly making the location and number of switched interconnection points irrelevant. Some MSS providers, such as Inmarsat raised potential liability exposure concerns of being required to provide E9-1-1 because they may not be wireless carriers given liability protection under the Wireless Communications and Public Safety Act of 1999. See, Inmarsat Initial Comments at p. 9.

FCC ruling on whether an embedded Telematics unit that also functions as a wireless telephone is covered by the current FCC wireless E9-1-1 rules.

VoIP E9-1-1 Requirements for Local Voice Telecommunications Services

APCO noted in its initial comments that a VoIP provider is offering home voice telephone service over DSL lines in twenty-five (25) states without any 9-1-1 capability or meeting minimum requirements of state public utility commissions and this provider offers to let the subscriber to pick their own area codes.⁵ (The Texas 9-1-1 Agencies would note that a provider named “Vonage” made an ex parte filing in this docket on February 27, 2003 indicating that basic 9-1-1 would be available in the second quarter of this year and the E9-1-1 solution was “in development.”) MCIWorldCom argued for the FCC not to require 9-1-1 requirements at this time for VoIP, stating: “As long as consumers receive accurate information about emergency service capabilities. The Commission should place no unachievable mandates on providers of IP-based services that include voice functionality.”⁶ The Commission should reject this argument by MCIWorldCom. If the Commission concludes that state public utility commissions do not have jurisdiction to require irresponsible VoIP providers to provide and comply with E9-1-1 requirements, then the FCC should act promptly to protect public safety and the reasonable expectation of consumers that local voice service includes E9-1-1 emergency service.

Resellers of Phase II Handset Solution Services

Normally in a resale situation (whether wireline or wireless) the underlying facilities carrier remains responsible for providing E911 appropriately. With a wireless E9-1-1 Phase II Handset solution, the reseller may be the one selling the handsets to the end user, not the

⁵ APCO Initial Comments at pp. 11-12.

⁶ MCIWorldCom Initial Comments at pp. 2-3.

facilities carrier. CTIA points out that these resellers should be responsible for compliance and that wireless consumers should not be expected to understand the distinction between licensees and resellers.⁷ Virgin Mobile (a wireless reseller) argues that if the FCC is going to put requirements on the resellers as to Phase II capable Handset distribution, then the schedule should be similar to the schedule already approved by the FCC for the Tier III carriers.⁸ The Texas 9-1-1 Agencies respectfully submit that an expedited clarification by the FCC on this issue would provide needed certainty. The suggestion by Virgin Mobile may be a reasonable and responsible approach for the FCC to adopt.

Embedded Wireless Telephones in Telematics Units

On the issue of an embedded Telematics unit that also functions as a wireless telephone, parties expressed very differing views regarding whether an embedded unit that can also be used to make wireless telephone calls is covered by the current FCC wireless E9-1-1 rules.⁹ An expedited FCC ruling on this issue would remove unnecessary uncertainty.

CONCLUSION

The Texas 9-1-1 Agencies appreciate the opportunity to submit these reply comments. The Texas 9-1-1 Agencies support the “evaluation criteria” and “project management” approach recommended by NENA and NASNA. The Texas 9-1-1 Agencies, as noted above, believe that there are some issues that would greatly benefit from expedited rulings by the Commission at this time, and the Texas 9-1-1 Agencies respectfully urge the Commission to take up and rule on those matters on an expedited basis.

⁷ CTIA Initial Comments at pp. 4-5; see also, Sprint Initial Comments at pp. 5-6.

⁸ Virgin Mobile Initial Comments at pp. 5-7.

⁹ See, for example, Motorola Initial Comments at p. 4; AWS Initial Comments at p. 5 (AWS argued that from a competitive neutrality standpoint, these embedded wireless telephones should be required to meet the same wireless E9-1-1 requirements as the licensed wireless carriers).

Respectfully submitted,

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Certificate of Service

I certify that a copy of these comments is being served on March 25, 2003 by regular or overnight mail or fax on the required parties.

Richard A. Muscat.

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